

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN re: Bayou Hedge Fund Investment Litigation

This Document Relates To:

Broad-Bussel Family Limited Partnership, et al.,

Plaintiffs,

v.

Bayou Group, LLC, et al.,

Defendants.

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MAY 31, 2006

**ANSWER OF THE DEFENDANTS JEFFREY D. FOTTA,
EQYTY RESEARCH AND MANAGEMENT, LLC AND
EQYTY RESEARCH AND MANAGEMENT, LTD**

1 – 9. The defendants Jeffrey D. Fotta (“Fotta”), Eqty Research and Management, LLC (“Eqty LLC”) and Eqty Research and Management, LTD (“Eqty LTD”) do not respond to the summary allegations as set forth in paragraphs 1 through 9 of the Amended Complaint and entitled “Nature of The Action” as these allegations are repeated with specificity in the body of the Amended Complaint and are responded to there where appropriate.

10. Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to the truth or falsity of the allegations concerning the status of this matter as a class action and, therefore, leave the plaintiffs to their proof.

11. Defendants Fotta, Eqty LLC and Eqty LTD admit paragraph insofar as it alleges that the Plaintiffs have made claims under the 15 U.S.C. § 80b-6 and 15 U.S.C. § 80b-15.

12. Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to the truth or falsity of the allegations of this paragraph and leave Plaintiffs to their proof.

13. Defendants Fotta, Eqty LLC and Eqty LTD specifically deny those portions of ¶13 that allege that they engaged in tortuous conduct, either within or without the State of Connecticut. As to the remainder of the paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to its truth or falsity and leave Plaintiffs to their proof.

14. Defendants Fotta, Eqty LLC and Eqty LTD specifically deny those portions of ¶14 that allege that they engaged in any of the wrongs alleged in the Amended Complaint. As to the remainder of the paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to its truth or falsity and leave Plaintiffs to their proof.

15. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

16. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

17. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

18. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

19. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

20. Defendant Fotta denies so much of paragraph 20 that alleges that 27 Beaver Place, Boston, MA is his home address. As to the remainder of the paragraph, Defendants Fotta, Eqty

LLC and Eqty LTD have insufficient knowledge as to its truth or falsity and leave Plaintiffs to their proof.

21. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

22. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

23. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

24. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

25. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

26. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

27. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

28. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

29. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

30. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

31. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

32. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

33. Defendant Fotta denies that he ever was a member of Bayou Group, LLC, and while he admits that he was listed as a Member of Bayou Group, LLC, he denies that he ever authorized such membership or any filing with the Connecticut Secretary of State listing him as such. Defendant Fotta denies that he was ever a Principal of Bayou Group LLC, as that term is defined in paragraph 17 of the Amended Complaint. Defendant Fotta further denies that he was ever a principal or agent for Bayou Partners or Bayou Securities as those terms are defined in paragraphs 20 and 23 respectively of the Amended Complaint. Defendant Fotta admits that a filing was made with the Connecticut Secretary of State with regard to the Bayou Group, LLC in order to correct the mistaken filing that listed him as a Member of Bayou Group, LLC, but specifically denies that portion of this paragraph that alleges he attempted to conceal anything.

- a. Defendant Fotta admits that portion of paragraph 33 insofar as it alleges that he is a citizen of Massachusetts and that he resided at 73 Mount Vernon Street in Boston, MA. Defendant Fotta also admits that portion of the paragraph only insofar as it alleges that Ernst Research and Management, LLC maintained a telephone listing at 27 Beaver Place. The remainder of the paragraph is denied.
- b. Defendant Fotta admits that portion of the paragraph insofar as it alleges he was a co-founder of defendant Eqty LLC and principal of defendant Eqty LTD. Defendants Fotta, Eqty LLC and Eqty LTD deny that Eqty LLC and Eqty LTD received at least \$700,000 from 2003 to 2005 from Bayou Securities. As for that portion of the

paragraph that alleges that a certain article from *The New York Times* did or did not report a particular item, and insofar as that article is not made an exhibit thereto, the article speaks for itself. As for that portion of the paragraph that alleges that the Bayou defendants halted all stock trades in or about April 2004, that allegation is not directed to Defendants Fotta, Eqty LLC and Eqty LTD and they do not respond to it. As to the remainder of the allegations of the paragraph, they are denied.

34. This portion of paragraph 34 does not set forth any allegation and Defendants Fotta, Eqty LLC and Eqty LTD therefore do not respond.

- a. Defendant Eqty LLC admits that it was a limited liability company organized under the laws of Massachusetts, and that it did maintain a place of business at 27 Beaver Place, Boston, MA.
- b. Admitted.
- c. To the extent this paragraph alleges that a certain media report on *SmartMoney.com* did or did not report certain items, and insofar as the report or transcript thereof is not attached thereto, the media report speaks for itself.

35. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

36. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

37. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

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39. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

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44. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

45. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

46. Defendant Jeffrey D. Fotta admits that portion of paragraph 46 insofar as it alleges that he attended an investor conference in Monaco, however, that conference was sponsored by Information management Network and Defendant Fotta attended said conference as a representative of Eqyty LLC in order to speak about its products and services. As to the remaining allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

47. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

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113. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

114. Defendants Fotta, Eqty LLC and Eqty LTD hereby reincorporate all of their responses to each of the foregoing paragraphs as if fully set forth herein.

115. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

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154. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

155. Defendants Fotta, Eqty LLC and Eqty LTD hereby reincorporate all of their responses to each of the foregoing paragraphs as if fully set forth herein.

156. Defendants Fotta, Eqty LLC and Eqty LTD do not respond to this paragraph insofar as it does not make any factual allegations.

157. Defendant Fotta specifically denies that portion of paragraph 157 insofar as it alleges or implies that he operated Bayou as that term is defined in paragraph 1 of the Amended Complaint or had any duty to operate Bayou whatsoever. To the extent any other allegations of this

paragraph 157 may be construed as being directed against Defendants Fotta, Eqty LLC and Eqty LTD, that portion of the paragraph is denied. As to the remaining allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

158. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

159. Defendants Fotta, Eqty LLC and Eqty LTD respond as follows:

- a. Defendant Fotta specifically denies that he was a principal of the Bayou Defendants as that term is defined in paragraph 1 of the Amended Complaint, and that he was involved in any manner, by way of dissemination or otherwise, with any alleged misrepresentations or omissions. Defendants Eqty LLC and Eqty LTD specifically deny that they participated in any manner by allowing or otherwise in the alleged misrepresentation or omission of material facts, and further deny that they received either directly or indirectly any monetary compensation in connection with said allegations. To the extent any other allegations of this paragraph 157 may be construed as being directed against Defendants Fotta, Eqty LLC and Eqty LTD, that portion of the paragraph is denied. As to the remaining allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.
- b. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

160. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

161. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

162. Denied.

163. Denied.

164. Denied.

165. Defendants Fotta, Eqyty LLC and Eqyty LTD hereby reincorporate all of their responses to each of the foregoing paragraphs as if fully set forth herein.

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180. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

181. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

182. Defendants Fotta, Eqty LLC and Eqty LTD hereby reincorporate all of their responses to each of the foregoing paragraphs as if fully set forth herein.

183. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

184. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

185. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

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188. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

189. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

190. Defendants Fotta, Eqyty LLC and Eqyty LTD hereby reincorporate all of their responses to each of the foregoing paragraphs as if fully set forth herein.

191. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

192. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

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199. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

200. Defendants Fotta, Eqyty LLC and Eqyty LTD hereby reincorporate all of their responses to each of the foregoing paragraphs as if fully set forth herein.

201. Defendants Fotta, Eqyty LLC and Eqyty LTD do not respond to this paragraph insofar as it does not make any factual allegations.

202. Denied.

203. Denied.

- a. Defendant Fotta specifically denies that was a principal of the Bayou Defendants as that term is defined in paragraph 1 of the Amended Complaint, and that he was involved in any manner, by way of dissemination or otherwise, with any alleged misrepresentations or omissions. Defendants Eqyty LLC and Eqyty LTD specifically deny that they participated in any manner by allowing or otherwise in the alleged misrepresentation or omission of material facts, and further deny that they received either directly or indirectly any monetary compensation in connection with said

allegations. To the extent any other allegations of this paragraph 157 may be construed as being directed against Defendants Fotta, Eqyty LLC and Eqyty LTD, that portion of the paragraph is denied. As to the remaining allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

- b. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.
- c. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

204. Denied.

205. Defendants Fotta, Eqyty LLC and Eqyty LTD hereby reincorporate all of their responses to each of the foregoing paragraphs as if fully set forth herein.

206. Defendants Fotta, Eqyty LLC and Eqyty LTD do not respond to this paragraph insofar as it does not make any factual allegations.

207. Denied.

208. Denied.

- a. Defendant Fotta specifically denies that was a principal of the Bayou Defendants as that term is defined in paragraph 1 of the Amended Complaint, and that he was involved in any manner, by way of dissemination or otherwise, with any alleged misrepresentations or omissions. Defendants Eqyty LLC and Eqyty LTD specifically deny that they participated in any manner by allowing or otherwise in the alleged

misrepresentation or omission of material facts, and further deny that they received either directly or indirectly any monetary compensation in connection with said allegations. To the extent any other allegations of this paragraph 157 may be construed as being directed against Defendants Fotta, Eqyty LLC and Eqyty LTD, that portion of the paragraph is denied. As to the remaining allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

- b. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.
- c. As to the allegations of this paragraph, Defendants Fotta, Eqyty LLC and Eqyty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

209. Denied.

210. Defendants Fotta, Eqyty LLC and Eqyty LTD hereby reincorporate all of their responses to each of the foregoing paragraphs as if fully set forth herein.

211. Defendants Fotta, Eqyty LLC and Eqyty LTD do not respond to this paragraph insofar as it does not make any factual allegations.

212. Denied.

213. Denied.

- a. Defendant Fotta specifically denies that was a principal of the Bayou Defendants as that term is defined in paragraph 1 of the Amended Complaint, and that he was involved in any manner, by way of dissemination or otherwise, with any alleged

misrepresentations or omissions. Defendants Eqty LLC and Eqty LTD specifically deny that they participated in any manner by allowing or otherwise in the alleged misrepresentation or omission of material facts, and further deny that they received either directly or indirectly any monetary compensation in connection with said allegations. To the extent any other allegations of this paragraph 157 may be construed as being directed against Defendants Fotta, Eqty LLC and Eqty LTD, that portion of the paragraph is denied. As to the remaining allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

- b. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.
- c. As to the allegations of this paragraph, Defendants Fotta, Eqty LLC and Eqty LTD have insufficient knowledge as to their truth or falsity and leave Plaintiffs to their proof.

214. Denied.

215. Defendants Fotta, Eqty LLC and Eqty LTD hereby reincorporate all of their responses to each of the foregoing paragraphs as if fully set forth herein.

216. Defendants Fotta, Eqty LLC and Eqty LTD do not respond to this paragraph insofar as it does not make any factual allegations.

217. This paragraph is denied to the extent it alleges that any of the Plaintiffs or members of the putative class entered into any relationship whatsoever, whether directly or indirectly and

whether fiduciary, legal, business and/or other with the Defendants Fotta, Eqty LLC or Eqty LTD.

218. To the extent this paragraph makes allegations not directed to the Defendants Fotta, Eqty LLC and Eqty LTD, these defendants do not here respond to those allegations. Defendants admit that Eqty LLC received fair compensation in exchange for providing research. That portion of paragraph 218 that alleges that Defendants Fotta, Eqty LLC or Eqty LTD assisted in operating Bayou or received compensation therefore is specifically denied. The remainder of the paragraph as it relates to Defendants Fotta, Eqty LLC or Eqty LTD is denied.

219. Denied.

220. Denied.

THE DEFENDANTS,
JEFFREY D. FOTTA,
EQYTY RESEARCH AND MANAGEMENT, LLC and
EQYTY RESEARCH AND MANAGEMENT LTD

BY: /s/ Howard K. Levine
Howard K. Levine (HL9844)
Carmody & Torrance LLP
195 Church Street, 18th Floor
P.O. Box 1950
New Haven, CT 06509-1950
Telephone: 203-777-5501
Facsimile: 203-784-3199
E-mail: hlevine@carmodylaw.com

Their Attorney

CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2006, a copy of the foregoing **Answer of the Defendants Jeffrey D. Fotta, Eqty Research and Management, LLC and Eqty Research and Management, LTD** was filed electronically [and served by mail on anyone unable to accept electronic filing]. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system [or by mail to anyone unable to accept electronic filing]. Parties may access this filing through the Court's CM/ECF System.

/s/ Howard K. Levine
Howard K. Levine